

REMARKS

Claims 1, 4, 5 and 7 remain in the application, and claim 1 has been amended hereby.

Reconsideration is respectfully requested of the rejection of claims 1, 4, and 5 under 35 USC 102(e), as being anticipated by Peterson '020.

Features of the accounting system according to the present invention are a second controller included in a terminal device for transmitting a remaining accounting point information stored in a first memory built in the terminal device to an accounting center which performs an accounting process based on the remaining accounting point information transmitted from the terminal device.

Independent claim 1 recites these features of the present invention.

It is respectfully submitted that Peterson '020 fails to show or suggest a second controller included in a terminal device for transmitting a remaining accounting point information stored in a first memory built in the terminal device to an accounting center which performs an accounting process based on the remaining accounting point information transmitted from the terminal device.

Peterson '020 is merely teaching the use of a general prepaid card (88 in Fig. 3) which inherently does not transmit remaining accounting points to an accounting center. As described in col. 9,

lines 48-53 of Peterson '020, it is merely possible to add (adjust) accounting points to the prepaid card by having the user physically take the prepaid card to a service center to add points to the card or by accessing the service center online ("online process").

Further, Peterson '020 is clearly describing the use of a smart card (88 in Fig. 3) as an alternative to an online payment process, see col. 3, lines 3-5, and the purpose of either payment system is to enable a user to purchase the right to view a movie for a certain fee. Neither the smart card nor the online payment process of Peterson '020 transmits the remaining accounting points to the accounting center.

Furthermore, regarding the assertions set forth in the Office Action at paragraph 11 stating that the "configured to" language is considered functional language having no patentable weight, it is submitted that the C.C.P.A. has pointed out that there is nothing intrinsically wrong in defining something by what it does rather than what it is, and that functional language in the claims must be given full weight and may not be disregarded in evaluating the patentability of the subject matter defined employing such functional language. See In re Hallman, 210 U.S.P.Q. 609, 611 (C.C.P.A. 1981).

Moreover, as stated in MPEP Sec. 2173.05(g), a functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of

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ordinary skill in the pertinent art in the context in which it is used. A functional limitation is often used in association with an element, ingredient, or step of a process to define a particular capability or purpose that is served by the recited element, ingredient or step.

For example, in a claim that was directed to a kit of component parts capable of being assembled, the court held that limitations such as "members adapted to be positioned" serve to precisely define present structural attributes of interrelated component parts of the claimed assembly, In re Venezia, 189 USPQ 149 (CCPA 1976).

It is respectfully submitted that, if the statement set forth in the Office Action at paragraph 11 asserting that "if the prior art structure is capable of performing the intended use, then it meets the claim" was true, all inventions being implemented in a general computer would be unpatentable over a reference showing the structure of the general computer. This is clearly not the case.

It is respectfully submitted that for the above-noted reasons, the general prepaid card taught by Peterson '020 does not inherently function in the manner required by the presently claimed invention.

Accordingly, it is respectfully submitted that amended independent claim 1, and the claims depending therefrom, are patentably distinct over Peterson '020.

Reconsideration is respectfully requested of the rejection of claims 1, 4, and 5 under 35 USC 103(a), as being unpatentable over Peterson '020 in view of Kupka et al and Akiyama et al.

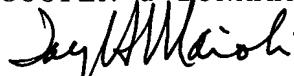
The rejection of claims 1, 4, and 5 over Peterson '020 has been addressed above and, because there are no features in Kupka et al. and Akiyama et al. that somehow could be combined with Peterson '020 and result in the presently claimed invention, it is respectfully submitted that claims 1, 4, and 5 are patentable distinct over Peterson '020 in view of Kupka et al and Akiyama et al.

Reconsideration is respectfully requested of the rejection of claim 7 under 35 USC 103(a), as being unpatentable over Peterson '020 in view of Goldman.

Claim 7 depends from claim 1, which rejection over Peterson '020 has been addressed above and, because there are no features in Goldman that somehow could be combined with Paterson '020 and result in the presently claimed invention, it is respectfully submitted that claim 7 is patentable distinct over Peterson '020 in view of Goldman.

Favorable reconsideration is earnestly solicited.

Respectfully submitted,
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